

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (PHILADELPHIA)**

IN RE:

KAREN PAULK

Debtor

BK. No. 20-10891-mdc

Chapter No. 13

WILMINGTON SAVINGS FUND SOCIETY,

FSB, AS TRUSTEE OF STANWICH

MORTGAGE LOAN TRUST F

Movant

:

11 U.S.C. §362 and §1301

v.

KAREN PAULK

:

**STEVEN PAULK, JR (NON-FILING CO-
DEBTOR)**

:

Respondents

:

**MOTION OF WILMINGTON SAVINGS FUND SOCIETY, FSB, AS TRUSTEE OF
STANWICH MORTGAGE LOAN TRUST F FOR RELIEF FROM AUTOMATIC STAY
UNDER §362 AND CO-DEBTOR STAY UNDER §1301 PURSUANT TO BANKRUPTCY
PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and Co-Debtor Stay and leave to foreclose on its mortgage on real property owned by DEBTOR, KAREN PAULK, and NON-FILING CO-DEBTOR, STEVEN PAULK, JR.

1. Movant is **WILMINGTON SAVINGS FUND SOCIETY, FSB, AS TRUSTEE OF STANWICH MORTGAGE LOAN TRUST F.**

2. DEBTOR, KAREN PAULK, and NON-FILING CO-DEBTOR, STEVEN PAULK, JR, are the owners of the premises located at **7 VAN HORN PLACE, HOLLAND, PA 18966**, hereinafter known as the mortgaged premises.

3. Movant is the holder of a mortgage on the mortgaged premises.

4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

5. Movant instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.

6. The foreclosure proceedings instituted were stayed by the filing of the instant

Chapter 13 Petition.

7. As of September 16, 2020, Debtor has failed to tender post-petition mortgage payments for the months of July 2020 through September 2020. The monthly payment amount for the months of July 2020 through September 2020 is \$1,613.28 each, less suspense in the amount of \$0.01, for a total amount due of \$4,839.83. The next payment is due on or before October 1, 2020 in the amount of \$1,613.28. The following fees and costs have been incurred since bankruptcy filing: Plan Review Fees in the amount of \$250.00, Preparation/Filing of Objection to Plan Fees in the amount of \$500.00, Preparation/Filing of Proof of Claim Fees in the amount of \$400.00. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant, **WILMINGTON SAVINGS FUND SOCIETY, FSB, AS TRUSTEE OF STANWICH MORTGAGE LOAN TRUST F**, requests the Court award reimbursement in the amount of \$1,031.00 for the legal fees and costs associated with this Motion.

9. Movant additionally seeks relief from the Co-Debtor Stay under §1301(c) (if applicable) in the instant case, as the continuation of the co-debtor stay causes irreparable harm to the Movant. Movant may be barred from moving forward with its state court rights under the terms of the mortgage without relief from the Co-Debtor Stay.

10. Movant has cause to have the Automatic Stay and Co-Debtor Stay terminated as to permit Movant to complete foreclosure on its mortgage.

11. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

12. Movant requests that if relief is granted that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 and Co-Debtor Stay under

Section 1301 with respect to **7 VAN HORN PLACE, HOLLAND, PA 18966** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

- b. That relief from any Co-Debtor Stay (if applicable) is hereby granted; and
- c. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and
- d. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and
- e. Granting any other relief that this Court deems equitable and just.

/s/ Thomas Song, Esquire
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